

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

JULIAN JERNIGAN

PLAINTIFF

v.

CIVIL ACTION NO. 3:17-cv-861-WHB-JCG

WAL-MART STORES, INC.; ET AL.

DEFENDANTS

ORDER

This cause is before the Court on the Motion of Defendant to Strike Plaintiff's Response to its Motion for Summary Judgment.

Relevant to this Motion, the Docket shows that Defendant filed its Motion for Summary Judgment on July 23, 2018. Under the Local Rules of this Court, Plaintiff was required to respond to the Motion on or before August 6, 2018. Because Plaintiff did not file his Response until August 8, 2018, Defendant moves for the Response to be struck as untimely filed.

As a rule, motions seeking to strike pleadings "are generally disfavored and rarely granted." Bertoniere v. First Mark Homes, Inc., 2010 WL 729931, at *1 (S.D. Miss. Feb. 25, 2010). See also Kaiser Aluminum & Chem. Sales, Inc. v. Avondale Shipyards, Inc., 677 F.2d 1045, 1057 (5th Cir. 1982) (finding that motions to strike "are generally disfavored"). Here, although the Court does not condone Plaintiff's untimely response, it finds that the two-day delay in its filing does not warrant the drastic remedy of striking that pleading. Accordingly:

IT IS THEREFORE ORDERED that the Motion of Defendant to Strike [Docket No. 23] is hereby denied.

SO ORDERED this the 3rd day of October, 2018.

s/ William H. Barbour, Jr.
UNITED STATES DISTRICT JUDGE